

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: April 29, 2005

To: The Commission
(Meeting of May 5, 2005)

From: Delaney L. Hunter, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **AB 1383 (Pavley) Solar energy: Low-Income Housing
Development Revolving Load Program**
As Amended (April 18, 2005)

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: Support if amended.

SUMMARY: This bill requires the CPUC to implement a program to invest in solar energy systems for low-income housing by July 1, 2006. The bill also requires the State Energy Resources Conservation and Development Commission (CEC) to develop a revolving loan program to finance up to 75% of solar and energy efficiency project costs for low-income housing at below-market interest rates. The purpose of the bill is to provide affordable financing to entities that may not otherwise be able to finance solar and efficiency projects on low-income housing.

DIVISION ANALYSIS (Energy): A below-market loan allows an entity such as a non-profit agency to develop solar projects which would not otherwise obtain financing. Financing availability for these entities provides parity to California's low-income population.

Legislation may not be necessary. It would be fairly straightforward for the CPUC to consider ways to ensure incentive funding and loan availability for solar projects for low-income housing within an existing proceeding (R.04-12-045), as described in Section 3 (b). CPUC and CEC staff are in the process of drafting a joint proposal to implement a large-scale solar program, based on public comments in R.04-12-045. It is likely that staff will provide a joint recommendation on whether and how to allocate funding for low-income solar projects. The report is expected to be issued in mid-May. The CPUC could also design, adopt, and oversee a solar revolving loan program within an existing CPUC proceeding.

The bill should clarify the funding source and mechanisms for the proposed loan program and to whom the loans will be made. If the program is funded through utility ratepayer distribution rates, the program would necessarily be overseen by the CPUC, not the CEC. There is no legal mechanism for the CPUC to allocate funding to pay CEC staff to oversee and/or administer any type of program. This is the reason the Legislature created the Public Goods Charge (PGC) and the Renewable Resource Trust Fund in AB 1890. The CPUC does not have authority to allocate funds to the Renewable Resource Trust Fund; such authority resides with the Legislature.

The bill should make clear that if the loan program is funded through PGC funds, the Low Income Energy Efficiency (LIEE) budget would not be impacted. The CPUC, in consultation with the Low Income Advisory Board, created by SBX2 2, has already allocated the LIEE budget for existing low-income energy efficiency programs. Making changes to the LIEE budget and/or programs would be a fairly contentious and politically-charged process, and could require a new, rather than existing, proceeding to develop and coordinate the program with existing LIEE programs.

Suggested Amendments:

- Either designate the Renewable Resource Trust Fund as the funding source for a revolving solar and energy efficiency loan program administered by the CEC or direct the CPUC to develop and oversee a revolving loan program to support solar and energy efficiency projects for low-income housing, funded through utility distribution rates.
- Require a cost/benefit analysis of the program.

STATUS: Passed in Assembly U. & C. on April 26th (Ayes 7 Noes 3). Re-referred to Assembly Appropriations.

SUPPORT/OPPOSITION

Support:

Global Green (Sponsor)
American Federation of State County Municipal Employees
Greenpeace
Housing California
Kyocera Solar, Inc., San Diego
Sierra Club California

Opposition:

None on file.

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Date: April 29, 2005

BILL LANGUAGE:

BILL NUMBER: AB 1383 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY APRIL 18, 2005

AMENDED IN ASSEMBLY APRIL 6, 2005

INTRODUCED BY Assembly Member Pavley
(Coauthors: Assembly Members
Hancock, Mullin, Salinas, and
Torrico)

FEBRUARY 22, 2005

An act to add and repeal Chapter 5.6 (commencing with Section 25460) of Division 15 of the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1383, as amended, Pavley. Solar energy: Low-Income Housing Development Revolving Loan Program.

(1) Existing law establishes various revolving loan programs to provide loans for specified purposes, including recycling market development and renewable energy resources.

This bill would establish, until January 1, 2016, the Low-income Housing Development Revolving Loan Program to subsidize the financing gap for distributed solar energy systems, as defined, in low-income housing units. The bill would create the Low-income Housing Development Revolving Loan Fund (the fund) for the purpose of providing loans for program purposes.

The bill would require the State Energy Resources Conservation and Development Commission to take various actions to establish the program ~~—, including entering into a memorandum of agreement with a state agency to administer the program~~ upon the appropriation of money in the fund for that purpose in the annual Budget Act.

(2) The bill would require the California Public Utilities Commission (PUC), in consultation with the commission, on or before July 1, 2006, to issue an order initiating an investigation and opening a ratemaking proceeding, or expanding the scope of an existing proceeding, to adopt and implement a program to invest in low-income residential housing solar energy systems pursuant to the program, as provided.

The bill would require the commission to identify funds that are currently available in the Renewable Resource Trust Funds for the program if funds are not made available through the PUC ratemaking proceeding.

The bill would require the commission *, if funds are available for this purpose under provisions of this bill,* to ensure that the proportional program support for the installation of solar energy systems on new construction and rehabilitation of affordable housing units does not exceed a certain percentage of the overall program funds, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) California has a pressing need to procure a steady supply of affordable and reliable peak electricity for affordable housing units.

(b) Solar generated electricity is uniquely suited to California's needs because it produces electricity when California needs it most, during the peak demand hours in summer afternoons when the sun is brightest and air conditioners are running at capacity.

(c) Procuring solar electric generation capacity to meet peak electricity demand increases system reliability and decreases California's dependence on unstable fossil fuel supplies.

(d) Solar generated electricity diversifies California's energy portfolio. California currently relies on natural gas for the bulk of its electricity generation needs. Increasing energy demands place increasing pressure on limited natural gas supplies and threaten to raise costs.

(e) ~~More than~~ Roughly 20,000 affordable housing units will be built annually in California in the coming years, challenging energy reliability and affordability for those residents who can least afford inflated energy bills.

(f) Investing in low-income housing solar electricity generation installations today will lower the cost of solar generated electricity for all Californians in the future. In 10 years, solar peak electric generation can be procured without the need for rebates.

(g) Increasing California's solar electricity generation market will also bring additional manufacturing, installation, and sales jobs to the state at a higher rate than most conventional energy production sources.

(h) Funding the Low-Income Housing Development Revolving Loan Program established pursuant to Chapter 5.6 (commencing with Section 25460) of Division 15 of the Public Resources Code (hereafter the loan program) is a cost-effective investment by ratepayers in peak electricity generation capacity, because as a result of the program ratepayers will recoup the cost of their investment through lower rates by avoiding purchases of electricity at peak rates, with additional system reliability and pollution reduction benefits.

(i) The Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, and existing law authorizes the commission to establish rules for all public utilities, subject to control by the Legislature. In addition, the commission can require an electric or gas corporation to perform home weatherization services, as defined, for low-income customers, as determined by the commission.

(j) The loan program would further establish, increase, and modify incentives and provide financing mechanisms for energy efficiency and photovoltaic capabilities for subsidized and affordable housing, and establish "zero energy homes" as a goal for low-income and affordable housing residents.

(k) Solar energy systems provide substantial energy reliability and pollution reduction benefits. Solar energy systems also diversify our energy supply and thereby reduce our dependence on imported fossil fuels.

SEC. 2. Chapter 5.6 (commencing with Section 25460) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 5.6. Low-income Housing Development Revolving Loan Program

25460. As used in this chapter, the following terms have the following meanings:

~~—(a) "Agency" means the state agency with which the commission enters into a memorandum of understanding to administer the program.~~

~~—(b) —~~

(a) "Fund" means the Low-income Housing Development Revolving Loan Fund created by Section 25462.

~~—(c) —~~

(b) "Low-income residential housing" means affordable residential housing units that are defined in Section 50052.5 or 50053 of, or are undertaken, constructed, or operated pursuant to Chapter 3.6 (commencing with Section 50199.4) of Part 1 of Division 31 of, the Health and Safety Code.

~~—(d) —~~

(c) "Program" means the Low-Income Housing Development Revolving Loan Program created by Section 25461.

~~—(e) —~~

(d) "Solar energy system" means a photovoltaic solar collector or other photovoltaic solar energy device that has a primary purpose of providing for the collection and distribution of solar energy for the generation of electricity, and that produces at least 1 kW alternating current rated peak electricity.

25461. The Low-Income Housing Development Revolving Loan Program is hereby established. The purpose of the program is to provide a source of financing not to exceed 75 percent of the total system cost, for solar energy systems in low-income residential housing units.

25462. (a) The Low-income Housing Development Revolving Loan Program Fund is hereby created in the State Treasury for the purpose of providing loans for purposes of the program.

(b) *The commission shall administer the fund.*

(c) *The commission shall consult with the California Tax Credit Allocation Committee (TCAC), the California Housing Finance Agency, and the Department of Housing and Community Development to develop guidelines for the fund.*

(d) ~~The agency~~ commission may expend the money in the fund to make loans to local governing bodies, private businesses, and nonprofit entities to provide funding for solar energy systems in low-income housing units.

~~—(e) The agency~~

(e) *The commission shall administer below market rate loans at a rate determined annually by the agency.*

25463. (a) ~~The agency~~ commission shall establish and collect a fee for each application for a loan authorized by this section. The application fee shall be set at a level that is sufficient to fund the ~~agency's~~ commission's cost of processing applications for loans. In addition, the agency shall establish a schedule of fees, or points, for loans that are entered into by the ~~agency, to fund the agency's~~ commission, to fund the commission's administration of the program.

(b) ~~The agency~~ commission may expend money in the fund, including interest earnings on money in the fund,

for the administration of the program, upon the appropriation of money in the fund for that purpose in the annual Budget Act.

(c) The money from any loan repayments and fees, including, but not limited to, principal and interest repayments, fees and points, recovery of collection costs, income earned on any asset recovered pursuant to a loan default, and money collected through foreclosure actions, shall be deposited in the fund.

(d) All interest accruing on interest payments from loan applicants shall be deposited in the fund.

(e) The ~~agency~~ commission may set aside money in the fund for the purposes of paying costs necessary to protect the state's position as a lender-creditor. These costs shall be broadly construed to include, but not be limited to, foreclosure expenses, auction fees, title searches, appraisals, real estate brokerage fees, attorney fees, mortgage payments, insurance payments, utility costs, repair costs, removal and storage costs for repossessed equipment and inventory, and additional expenditures to purchase a senior lien in foreclosure or bankruptcy proceedings.

25464. To be eligible for participation in the program, a housing project must be at least 10 percent or more energy efficient than required by the current standards specified in the California Building Standards Code contained in Title 24 of the California Code of Regulations, or have implemented measures to reduce the energy use of the building or unit by 10 percent, as calculated pursuant to Title 24 compliance models. An eligible housing project that exceeds energy efficiency standards required by Title 24 by more than 10 percent shall receive financing at rate of .25 percent lower for every 5 percent additional improvement in energy efficiency.

~~25465. The commission may consult with the California Tax Credit Allocation Committee (TCAC), the California Housing Finance Agency and the Department of Housing and Community Development to develop guidelines for the loan program.~~

25466. This chapter shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

SEC. 3. (a) Notwithstanding any other law, on or before July 1, 2006, the California Public Utilities Commission (PUC), in consultation with the State Energy Resources Conservation and Development Commission, shall issue an order initiating an investigation and opening a ratemaking proceeding, or expanding the scope of an existing proceeding, for the purpose of adopting and implementing a program to invest in low-income residential housing solar energy systems pursuant to Chapter 5.6 (commencing with Section 25460) of Division 15 of the Public Resources Code.

(b) In the course of that proceeding, the PUC and the State Energy Resources Conservation and Development Commission shall also consider and evaluate whether existing solar energy programs are adequately funded to achieve the goal of placing solar energy systems on low-income or affordable residential housing units by December 31, 2018.

(c) If funds are not available through a PUC ratemaking proceeding, the State Energy Resources Conservation and Development Commission shall identify funds either from those currently available in the Renewable Resource Trust Fund established by Section 25751 of the Public Resources Code or in the next available reauthorization of the fund.

(d) ~~The commission~~ If funds are made available for this purpose under subdivision (a) or (c), the State

Energy Resources and Conservation and Development Commission
shall ensure proportional program support, not to exceed 10 percent
of the overall program funds, for the installation of solar energy
systems on the new construction and rehabilitation of affordable
housing units, including single and multifamily residential housing.
~~In addition to the rebate, the~~ The
commission shall also ensure that additional and proportional
resources, not to exceed 5 percent of the overall program funds, are
provided for the unique needs of the subsidized low-income housing
program through a targeted financing mechanism
~~and support~~, including a revolving loan fund,
~~technical assistance, and other needs~~ as identified in
consultation with the California Tax Credit Allocation Committee.